

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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EASTERN WHOLESALE FENCE CO., INC.,

Plaintiff,

-against-

TECHNOPLAST INTERNATIONAL, INC.,

Defendant.  
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**ORDER**

CV 06-1465 (SJF)(ARL)

**LINDSAY, Magistrate Judge:**

Defendant moves by letter dated October 11, 2006 pursuant to Federal Rule 37 of the Federal Rules of Civil Procedure and Local Civil Rule 37.3 for an order precluding the plaintiff from submitting an expert report or expert testimony regarding damages. Plaintiff has opposed the application by letter dated October 13, 2006. For the reasons that follow, the application is denied.

By order dated June 21, 2006, the undersigned entered a pretrial scheduling order that set January 3, 2007 as the deadline for the completion of all discovery, including expert discovery. Given that the deadline is some twelve weeks away, there is no basis for imposing the sanction sought. Accordingly, the application is denied. Plaintiff is nonetheless reminded that it must provide its expert discovery at least 30 days in advance of the discovery deadline to permit the defendant an opportunity to respond.

Dated: Central Islip, New York  
October 16, 2006

**SO ORDERED:**

\_\_\_\_\_/s/\_\_\_\_\_  
ARLENE ROSARIO LINDSAY  
United States Magistrate Judge